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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

FATAI AGBABIAKA,

Defendant and Appellant.

B166878

(Los Angeles County
Super. Ct. No. BA236251)

ORDER MODIFYING OPINION

[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on March 10, 2004, be modified as follows:

On page 1 in the second sentence of the editorial information insert “Anita H. Dymant,” so that the sentence reads:

Anita H. Dymant and Norman P. Tarle, Judges.

On page 3 in the second sentence under the subheading I. Sufficiency of the Evidence after the phrase “Several times during the trial,” insert “Judge Tarle,” and after the phrase “the trial court” insert “judge” so that the modified sentence reads:

Several times during trial, Judge Tarle, the trial court judge, and counsel discussed how, in light of the absence of the defendant, the prosecution could establish his identify as the perpetrator of the charged offenses.

On page 7 under subheading II. Pitchess Motion at the beginning of the third paragraph delete “The trial court” and insert “Judge Dymant heard the motion and” so that the modified sentence reads:

Judge Dymant heard the motion and ruled that appellant had presented a plausible alternative version of events that would call into question the validity of the police report and testimony, but granted the Pitchess motion only as to Officer Olsen, the reporter’s author.

There is no change in the judgment.